

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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| PATRICIA REYNOLDS, et al., |) | |
| |) | |
| Plaintiffs, |) | Case No. 1:05-cv-527 |
| |) | |
| v. |) | Honorable Robert Holmes Bell |
| |) | |
| SUSANNE E. HARRIS-SPICER, et al., |) | <u>MEMORANDUM OPINION</u> |
| |) | |
| Defendants. |) | |
| |) | |

This is a *pro se* civil rights action brought pursuant to 42 U.S.C. § 1983. On June 19, 2007, the court entered a notice of impending dismissal of all plaintiffs' claims against the two remaining defendants, Unknown Schafer and Unknown Christiansen, for failure to achieve service of the summons and amended complaint. The notice advised plaintiffs that "absent a showing of 'good cause' for their failure to achieve service, plaintiffs' claims against the unserved defendants [would] be dismissed without prejudice in 14 days, and a final judgment [would] enter in this matter." (docket # 135). Plaintiffs ignored the court's notice of impending dismissal. Thus, plaintiffs have not demonstrated good cause. Accordingly, all plaintiffs' claims against Unknown Schafer and Unknown Christiansen will be dismissed without prejudice, and a final judgment will enter in this matter.

On July 11, 2007, plaintiff Patricia Reynolds filed a notice of appeal of this court's order of June 7, 2007. Her notice of appeal (docket # 136) misrepresented to the United States Court of Appeals for the Sixth Circuit that the June 7, 2007 order was a "final order" disposing of all her

claims against all defendants. Ordinarily, the filing of a notice of appeal divests this court of jurisdiction and transfers jurisdiction to the Court of Appeals. However, the “district court retains jurisdiction to proceed with matters that are in aid of the appeal.” *Inland Bulk Transfer Co. v. Cummins Engine Co.*, 332 F.3d 1007, 1013 (6th Cir. 2003). The dismissal of plaintiffs’ claims against the two unserved defendants and the entry of a final judgment are actions in aid of the appeal. They provide clarity as to the parties and claims before the Court of Appeals and may act to prevent the dismissal of Mrs. Reynolds’s appeal on the procedural ground that her notice of appeal was premature. *See Preferred Properties, Inc. v. Indian River Estates, Inc.*, 276 F.3d 790, 796 n. 4 (6th Cir. 2002). Accordingly, final judgment will be entered in this matter without further delay.

Date: July 26, 2007

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
CHIEF UNITED STATES DISTRICT JUDGE